



Department  
for Education

Office for  
Students

A graphic element for the Office for Students logo, consisting of a dark blue square with a yellow square in the top right corner.

ofs

# Office for Students Framework Document

October 2019

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# Introduction to the Framework Document and the OfS

## 1.1 The Framework Document

This Framework Document has been drawn up by the Department for Education (“the Department”) in consultation with the Office for Students (“the OfS”). This document sets out the broad framework within which the OfS will operate. The Framework Document between the Department and the OfS dated 28 March 2018 (“referred to as “the 2018 FD”) has been reviewed and is replaced by this document from 1st August 2019. This document does not confer any legal powers or responsibilities. It sets out agreed expectations for how day-to-day interactions will be handled. This document has been signed by the Permanent Secretary of the Department, the Chair and Chief Executive of the OfS, and the Minister for Universities, Science, Research and Innovation.

In this document, unless otherwise stated, the following definitions shall apply:

### Table of terms and definitions

Term	Definition
"the Accounting Officer"	The Chief Executive
"the Act"	The Higher Education and Research Act 2017
"the Annual Report and Accounts"	The single document audited by the National Audit Office that contains the: report required to be prepared by the OfS under paragraph 13 of Schedule 1 to the Act including the strategic report, and the accounts
"the Board"	The OfS members appointed by the Secretary of State
"the Chair"	The OfS member appointed to serve as chair by the Secretary of State
"the Chief Executive"	The OfS member appointed to serve as the Chief Executive Officer by the Secretary of State
"the C&AG"	The Comptroller & Auditor General
"Delegated Financial Authority letter"	Letter issued by the Director General - Further and Higher Education Directorate to the OfS Accounting Officer to sub-delegate a range of financial and non-financial authorities and annexed as appendix 4
"the Department"	The Department for Education
"the DfAP"	The OfS-board member appointed to serve as the Director for Fair Access and Participation by the Secretary of State
"the FReM"	Government Financial Reporting Manual
"the Government"	The UK Government
"the Statutory Reviewer"	The Statutory Reviewer is responsible for reviewing disputed decisions in relation to access and

	participation plans taken by the Office for Students using powers under the Act
“the Minister”	The Minister for Universities, Science, Research and Innovation
“the OfS”	The Office for Students
“Parliament”	The UK Parliament
“the PAO”	The Department’s Principal Accounting Officer who is the Department’s Permanent Secretary
“registered provider”	An English higher education provider that is registered on the OfS’s register
“the Secretary of State”	The Secretary of State for Education
“the Senior Sponsor”	A named Director in the Department’s Higher and Further Education Directorate who acts as the senior point of liaison between the OfS, the Department, Secretary of State and Ministers
“Student Representative”	An OfS board member with experience of representing or promoting the interests of individual students, or students generally, on higher education courses provided by higher education providers.
“UKRI”	United Kingdom Research and Innovation, a Non-Departmental Public Body of the Department for Business, Energy and Industrial Strategy

## 1.2 Amendments to the Framework Document

The OfS or the Department may propose amendments to this document at any time under arrangements agreed by the Department’s Permanent Secretary, the Secretary of State and the OfS Chief Executive. Significant variations to the document must be cleared with HM Treasury, Cabinet Office, and the Department, as appropriate. The Department and OfS will formally review this document at least once every 3 years and will perform a light-touch annual review for continual relevance. The framework document will also be reviewed upon any significant changes made to the functions or governance of the OfS.

## 1.3 Interpretation of the Framework Document

Any question regarding the interpretation of the document will be resolved by the Department after consultation with the OfS and, as appropriate, with the Cabinet Office and/or HM Treasury.

## 1.4 Purpose of the OfS

The OfS is a non-departmental public body of the Department, established by the Act as the independent regulator of higher education in England. It exists to ensure that English higher education is delivering positive outcomes for students – past, present, and future.

## 1.5 OfS Funding

Fee income may be used to fund the OfS as set out at clause 12.4.

## 1.6 Better Regulation, Consultation and Impact Assessments

OfS shall follow the Government's commitment to efficient and effective regulation. Where possible and certainly whenever necessary OfS shall follow the [Consultation Principles](#) and comply with the Government's Better Regulation agenda and the Regulator's Code. Where necessary OfS shall produce Impact Assessments on any proposal that imposes or reduces costs on businesses and community and voluntary bodies. Impact Assessments and any related material should be produced in accordance with statutory guidance produced by the Better Regulation Executive.

## 2 Governance and accountability

### 2.1 Legal origins of powers and duties

The OfS's powers and duties derive principally from the Act. The Act also makes provision in relation to the issue of guidance by the Secretary of State to the OfS and for the Secretary of State to make grants to the OfS subject to terms and conditions; and to give directions to the OfS.

### 2.2 Secretary of State's guidance

Section 2 (3) of the Act requires the OfS to have regard to guidance given to it by the Secretary of State, alongside its other general duties. The expectation is that the guidance will be issued annually, although it may be more frequent. The guidance will set out the government's strategic and policy priorities for higher education and how it wishes OfS to address these. The Department's officials will provide advance sight of any guidance issued to the OfS. The OfS will publish the guidance on their website.

### 2.3 Secretary of State's power to make grants<sup>1</sup>

Section 74 of the Act allows the Secretary of State to make grants to the OfS, and to set terms and conditions on those grants. The Secretary of State will usually set out the annual funding for the OfS in the guidance mentioned in paragraph 2.2 above, which will cover strategic priorities for funding, policy and OfS operations. Details of funding will be issued before the end of the financial year preceding the one to which the funding applies. Ministers may change funding levels or profiles at any time and will do this through issuing supplementary funding information to the OfS. If these changes increase or decrease funding from the original amount, or change existing funding profiles, they may need clearance from HM Treasury. The Department will also provide the OfS with a budget for its running costs via a separate budget allocation letter.

### 2.4 Secretary of State's powers to give direction

The Secretary of State, through regulations, can give the OfS general directions about the performance of its functions. This is a power which the Department does not anticipate will be used frequently. The Secretary of State also can give the OfS 'financial support directions' in

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<sup>1</sup> In addition, see paragraph 16, below.

relation to a particular registered higher education provider, but only in very limited circumstances where it appears that there has been financial mismanagement at that provider.

## **2.5 Institutional autonomy of English higher education providers**

In issuing guidance, setting terms and conditions of grants or giving directions, the Act requires the Secretary of State to have regard to the need to protect the institutional autonomy of English higher education providers. The Act also places limits on how the Secretary of State's guidance, terms and conditions, and directions can be framed in order to safeguard the institutional autonomy of English higher education providers.

## **2.6 Responsibility of the OfS to allocate grant**

The OfS will allocate grants from the Secretary of State to eligible higher education providers, for the purposes of education and/or the provision of facilities and other activities in connection with education. The Secretary of State may make grants to the OfS subject to such terms and conditions as the Secretary of State considers appropriate.

## **2.7 Information Sharing**

The OfS and the Department have put in place standing arrangements for information requested by DfE under section 78 of the Act. These arrangements are set out in Annex 3 to this Document.

# **3 Aims and powers of the OfS**

## **3.1 Aims of the OfS**

On 28<sup>th</sup> of February 2018 OfS published its regulatory framework, as required under section 75 of the Act, setting out how it intends to exercise its functions and including guidance for registered higher education providers on the general ongoing registration conditions. The OfS must have regard to its regulatory framework when carrying out its functions.

As set out in the OfS's regulatory framework, the OfS seeks to ensure that students, from all backgrounds (particularly the most disadvantaged), can access, succeed in, and progress from higher education. The OfS is concerned with all students within its remit: from the UK and beyond; undergraduate and postgraduate; studying full time or part time and campus based or distance learners.

The OfS has four primary regulatory objectives; that all students, from all backgrounds, and with the ability and desire to undertake higher education:

- Are supported to access, succeed in, and progress from, higher education.
- Receive a high quality academic experience, and their interests are protected while they study or in the event of provider, campus or course closure.
- Are able to progress into employment or further study, and their qualifications hold their value over time.
- Receive value for money.

The OfS works with UKRI to monitor and mitigate the risk relating to the sustainability of those providers that contribute to the strength of the research base, and risks to the interests of postgraduate students.

### 3.2 Powers and duties of the OfS

Section 2 of the Act describes the general duties of the OfS. The Act requires the OfS, when performing its functions, to have regard to:

- a) The need to protect the institutional autonomy of English higher education providers,
- b) The need to promote quality, and greater choice and opportunities for students, in the provision of higher education by English higher education providers,
- c) The need to encourage competitions between English higher education providers in connection with the provision of higher education where that competition is in the interests of students and employers, while also having regard to the benefits for students and employers resulting from collaboration between such providers,
- d) The need to promote value for money in the provision of higher education by English higher education providers,
- e) The need to promote equality of opportunity in connection with access to and participation in higher education provided by English higher education providers,
- f) The need to use the OfS's resources in an efficient, effective and economic way, and
- g) So far as relevant, the principles of best regulatory practice, including the principles that regulatory activities should be
  - i. Transparent, accountable, proportionate and consistent, and
  - ii. Targeted only at cases in which action is needed

The particular functions of the OfS under the Act include:

- functions to enable the OfS to regulate English higher education providers through a **system of registration and registration conditions** (sections 3 to 22 of the Act). As well as functions regarding the establishment of a register, the OfS has functions in relation to setting initial and ongoing registration conditions and applying those conditions to providers on a risk-based approach. The OfS has powers to impose sanctions on a registered provider where it appears to the OfS that there is, or has been, a breach of the provider's ongoing registration conditions. Sanctions include monetary penalties, suspension of registration or de-registration;
- functions in relation to assessing (or making arrangements to assess) the **quality and standards** of higher education, in relation to the designated quality body and enabling the OfS to operate the Teaching Excellence and Student Outcomes Framework (TEF); (sections 23 to 28 of the Act);
- functions in relation to improving **access and participation**, in particular in relation to access and participation plans and their enforcement (sections 12, 21 and 29 to 37). The OfS is also required to comply with any direction given by the Secretary of State to report on matters relating to equality of opportunity in connection with access and participation;
- powers to provide **grant, loan and other funding** to registered eligible higher education providers or other persons under sections 39-40 of the Act and to impose terms and conditions in accordance with section 41 of the Act);
- powers to award, vary or revoke **Degree Awarding Powers** and to authorise or revoke the use of "**university title**" (sections 42 to 60 of the Act);

- powers and duties relating to **information**. The OfS has powers to require information from registered providers (through a mandatory registration condition – see section 8 of the Act) and unregistered English higher education providers (under section 62). It has functions as regards cooperation and information sharing (section 63) , as well as duties (alongside the designated data body) in relation to the publication of information that would be helpful to students and registered providers, and in relation to compiling and making available information to the OfS, UKRI and Secretary of State (sections 65 and 64 respectively);
- other functions including, a duty to report on the availability and uptake of student transfer arrangements and a power to facilitate, encourage or promote awareness of such arrangements (section 38), a duty to monitor and report on financial sustainability (section 68), power to arrange for studies for improving economy, efficiency and effectiveness (section 69).

The OfS has a number of functions conferred by legislation other than the Act, including:

- the OfS has the role of Principal Regulator under the Charities Act 2011 for registered providers that are charities exempt from registration and direct regulation by the Charity Commission;
- the OfS has responsibility for monitoring the ‘Prevent duty’ in the higher education sector, as set out in the Counter Terrorism and Security Act 2015.

## 4 Ministerial responsibility

### 4.1 Accounting in Parliament

The Secretary of State and the Minister will account for the OfS’s business in Parliament. The Minister will have lead responsibility for oversight of the OfS on a day-to-day basis.

## 5 Contact and engagement

### 5.1 The sponsor and partnership

The Department for Education is the sponsor for the OfS. The Department and the OfS will have an open and honest, trust-based partnership supported by the principles set out in the Partnerships between Departments and Arm’s Length Bodies: Code of Good Practice. As such, both parties will ensure they clearly understand the strategic aims and objectives of the other party. Both partners will also commit to keeping each other informed of any significant changes, risks, issues and concerns.

### 5.2 The sponsorship function

The Department’s Senior Sponsor for the OfS will be supported by a sponsorship team. The Senior Sponsor will:

- act as the senior point of liaison between the OfS, the Department, Secretary of State and Ministers;
- be the main source of advice to Ministers on the discharge of his or her responsibilities in respect of the OfS;



- support and advise the PAO on his or her responsibilities toward the OfS;
- hold quarterly performance reviews with the leadership of the OfS as part of performance monitoring and accountability; the Senior Sponsor, will be supported by a non-executive director from the Department's Board, to undertake the review;
- ensure that, where reasonably possible, the OfS's Chief Executive has advance notice of wider government announcements on higher education;
- aid the flow of information and nurture relationships, facilitating OfS's relationships with officials in other government Departments where reasonably possible;
- work collaboratively with the OfS's Chief Executive to facilitate the smooth operation of the arrangements set out in this Framework Document; and
- ensure requests for approval of expenditure are dealt with promptly and proportionately, and that Departmental approval is not unreasonably delayed and/or withheld for any reason, except where the Secretary of State reasonably considers that the proposed expenditure does not represent value for money.

If a Machinery of Government change results in the OfS being sponsored by a new department before the Framework Document is due for review, the Department will notify the OfS of the relevant relationship changes. The provisions of the Framework Document will continue to have effect until the Framework Document is replaced, unless otherwise stated by the new sponsor department.

### **5.3 Meetings between the OfS, Secretary of State, Minister, and Departmental officials**

In addition to regular, policy-led contact between the Department and OfS, we expect regular meetings at official levels to take place as set out below or scheduled at an appropriate frequency and at an appropriate level of seniority.

#### Engagement with the Secretary of State

- The Secretary of State shall meet the Chair, Chief Executive, and Director for Fair Access and Participation of the OfS at least annually, and more regularly if necessary.
- The Chair, Chief Executive, and Director for Fair Access and Participation of the OfS, may ask for a meeting with the Secretary of State at any time.
- The Senior Sponsor will attend OfS Board meetings as the Secretary of State's representative.

#### Engagement with the Minister

- The Minister shall maintain regular engagement with the Chief Executive, Chair and Director for Fair Access and Participation as appropriate to ensure an effective working relationship.

#### Engagement with the Deputy Director for Widening Participation

- Alongside regular engagement with the Senior Sponsor the Director for Fair Access and Participation will meet the Deputy Director with responsibility for Widening Participation in the Department quarterly.

Engagement with the sponsor team and the Finance Business Partner team (in addition to day-to-day engagement)

- The Department's sponsor team and the relevant Finance Business Partner will meet the Finance Director of the OfS, or their representative, monthly to discuss high level strategic, operational and policy issues. The escalation of any issues arising from these meetings will be via the quarterly strategic performance review meetings mentioned above.
- The Finance Business Partner team of the Department will meet with the Head of Finance of the OfS and the wider OfS Finance team monthly to review financial performance against plans, achievement against targets and expenditure against its budget allocations; and weekly to discuss day-to day working-level finance queries.
- There will be periodic meetings held between the Department's central finance team, the Finance Business Partner/s and the OfS Finance team.

The above meetings do not replace day-to day reporting, working and meetings between the sponsor team and the appropriate OfS officials, such as are needed to explain wider policy developments that might have an impact on the OfS.

## **5.4 Resolution of disputes between the OfS and Department**

The Department and the OfS will take a pragmatic and issue-based approach to dispute resolution.

This framework document and other governance documents and guidance should be used as a reference point for agreement between the two parties. A resolution should be agreed upon in a timely manner and in such a way that any potential disruption to on-going projects or operations is limited as much as possible.

Parties should endeavour to identify emerging issues as early as possible, and to communicate these to each other through the most appropriate route of engagement. This could include routine sponsorship meetings for more day-to-day issues, or direct conversations between the senior management for more urgent matters. Parties will ensure they come to a shared understanding of risk and take action accordingly.

### Partnership principles between the OfS and the Department

Both parties will agree clear routes of escalation for addressing both routine issues and urgent matters arising. In the first instance, issues should be escalated within the organisation at a working level and in a timely manner. Where this does not resolve the dispute, the issue should be escalated within the Department to the relevant director and subsequently to the director general for the Higher Education and Further Education Group, Permanent Secretary as the PAO and ultimately to the Secretary of State. Within the OfS, the issue should be escalated within the organisation at working level, then to the relevant director and/or committee chair, and ultimately to the CEO as accounting officer and/or the OfS chair (as appropriate).

Once the dispute is resolved, both parties should endeavour to learn the lessons from this process, and guidance should be recorded and communicated within each organisation to aid future deliberations.

## **5.5 Freedom of Information requests**

Where a request for information is received by either party under the Freedom of Information Act 2000, or pursuant to the relevant data protection legislation, the party receiving the request will consult with the other party prior to any disclosure of information that may affect the other party's responsibilities.

## **5.6 Provisions of the Act**

These arrangements do not substitute the provisions of the Act, in relation to the Secretary of State's powers to guide or direct the OfS (or at all).

# **6 The Principal Accounting Officer (PAO)**

## **6.1 The PAO**

The Permanent Secretary as PAO of the Department has designated the Chief Executive as the Accounting Officer for the OfS. The role/responsibilities of an Accounting Officer are set out in Chapter 3 of HM Treasury's Managing Public Money guidance.

## **6.2 The PAO's accountabilities**

The PAO is accountable to Parliament for the issue of any grant-in-aid or other funding allocated to the OfS. The PAO is responsible for advising the Minister on:

- an appropriate framework of objectives and targets for the OfS in the light of the Department's wider strategic aims and priorities;
- an appropriate budget for the OfS in the light of the Department's overall public expenditure priorities; and
- how well the OfS is achieving its strategic objectives and whether it is delivering value for money.

## **6.3 Other accountabilities of the PAO**

The PAO is also responsible for ensuring arrangements are in place in order to:

- monitor the OfS's activities;
- address significant concerns that arise in connection with the work of the OfS, making such interventions as are judged necessary to protect the interest of the government;
- periodically carry out an assessment of the risks connected to the OfS, both to the Department and the OfS's statutory obligations, objectives and activities;
- inform the OfS of relevant government policy in a timely manner; and
- bring concerns about the activities of the OfS to its Board and, as appropriate, to the Department's Board.

# **7 The OfS's Chief Executive as Accounting Officer**

## **7.1 The general responsibilities of the Accounting Officer**

The Chief Executive as Accounting Officer is personally responsible for safeguarding the public funds for which he or she has charge; for ensuring propriety, regularity, value for money and feasibility in the handling of those public funds; and for the day-to-day operations and management of the OfS. In addition, he or she should ensure that the OfS as a whole is run on the basis of the standards set out in Box 3.1 of Managing Public Money, in terms of governance, decision-making and financial management.

## **7.2 The Accounting Officer's responsibilities to Parliament**

The Accounting Officer's accountabilities to Parliament include:

- signing off the Annual Report and Accounts (ARA);
- ensuring that proper records are kept relating to the ARA
- that the ARA is properly prepared and presented in accordance with any directions issued by the Secretary of State (see Schedule 1, paragraph 12(2) to the Act) by:
  - preparing and signing a Governance Statement covering corporate governance, risk management and assurance of any local responsibilities;
  - ensuring that effective procedures for handling complaints about the OfS are established and made publicly available;
  - acting in accordance with the terms of this Framework Document, Managing Public Money and other instructions and guidance issued from time to time by the Department, HM Treasury and the Cabinet Office; and
  - giving evidence, normally with the PAO, when summoned before the Public Accounts Committee (PAC) on the OfS's stewardship of public funds or other statutory responsibilities. The AO has responsibility for ensuring OfS can safeguard and account for its assets.

## **7.3 The Accounting Officer's responsibilities to the Department**

The Accounting Officer is responsible for:

- establishing, in agreement with the Department and Ministers, the OfS's corporate and business plans having had regard to the Department's wider strategic aims and priorities;
- informing the Department of progress in helping to achieve the Department's policy objectives and in demonstrating how resources are being used to achieve those objectives;
- ensuring that timely forecasts and monitoring information on performance and finance are provided to the Department; that the Department is notified promptly if over or under spends are likely and that corrective action is taken; and that any significant concerns whether financial or otherwise, and whether detected by internal audit or by other means, are notified to the Department in a timely fashion; and
- providing the necessary and timely input to Minister's responses to Parliamentary Questions, and Parliamentary and public correspondence.

# **8 Corporate governance and the OfS Board**

## **8.1 Appointments to the Board**

The Act requires that the Office for Students must have a Chair, a Chief Executive Officer, a DfAP and between 7 and 12 ordinary members. At least one of these ordinary members must be a Student Representative.

These arrangements ensure that ordinary members will always be in a majority on the OfS Board, to ensure that OfS executives are supported and constructively challenged in their roles. The Department will actively monitor the equality and diversity of the OfS Board.

It is the responsibility of the Secretary of State to make appointments to the OfS. In doing so he or she must, as set out in the Act, have regard to the desirability of the OfS's members (between them) having experience of:

- representing or promoting the interests of higher education students;
- providing higher education;
- employing graduates of higher education courses;
- promoting choice for consumers and encouraging competition;
- creating, reviewing, implementing or managing a regulatory system;
- managing or auditing the financial affairs of an organisation; and
- a broad range of the different types of English higher education providers.

Appointment and reappointment processes will be carried out in line with the Governance Code for Public Appointments and the Act. Appointment terms are generally made for between three and five years. The Department's policy is that Members can be reappointed, with a presumption that no individual should serve more than two terms or serve in any one post for more than ten years.

The grounds on which the Secretary of State may remove a person from office as a member of the OfS are set out in paragraph 5(2) of Schedule 1 to the Higher Education and Research Act 2017. They are absent from the OfS's meetings for a continuous period of more than six months without the OfS's permission, inability or unfitness to carry out the functions or the office or such other grounds as the Secretary of State considers appropriate.

## **8.2 The Secretary of State's representative**

The Act empowers a representative of the Secretary of State to attend meetings of the Board or any OfS committees and take part in deliberations but not decisions. The representative should be notified in advance of OfS Board and committee meetings and be provided by the OfS with all documents distributed to the Board and, where requested, any OfS Committee. The role of the representative will be to provide an interface between Ministers and the OfS, providing the OfS with the latest ministerial thinking and feeding OfS operational expertise into ministerial thinking.

## **8.3 Risk and Audit Committee**

The Board should ensure that effective arrangements are in place to provide assurance on risk management, governance and internal control. The Board must establish a committee to consider audit and risk, (to be known as the Risk and Audit Committee) in accordance with the Government's Code of Good Practice for Corporate Governance and the Audit and Risk Assurance Committee Handbook. The Committee shall be chaired by an independent ordinary member to provide independent advice on governance, risk management and internal control.

The approval of ARA should be retained as a Board responsibility, albeit on the recommendation of the Risk and Audit Committee. The Board is expected to assure itself of the effectiveness of the internal control and risk management systems. There will be a link person from the Department's Audit and Risk Committees, who can observe the Committee and provide assurance to the Department's Audit and Risk Committee as necessary.

#### **8.4 Remuneration Committee**

The Board will establish a Remuneration Committee and advise the Secretary of State annually on the remuneration of the Chief Executive, the DfAP. The Chief Executive, the DfAP can take part in discussions, but cannot take part in the Remuneration Committee's decision-making process, and cannot attend or take part when the committee is discussing their own remuneration. The Department's Director of HR may attend meetings of the Remuneration Committee, as the Secretary of State's representative, to advise on senior remuneration policy across the public sector and how this has been applied in other non-departmental public bodies.

#### **8.5 The responsibilities of the Board**

The Board is specifically responsible for:

- establishing and taking forward the strategic aims and objectives of the OfS;
- ensuring that the Minister is kept informed of any changes that are likely to impact on the strategic direction or targets, and determining the steps needed to deal with such changes;
- ensuring that any statutory or administrative requirements for the use of public funds are complied with; that the Board operates within the limits of its statutory authority, any delegated authority agreed with the Department, including conditions related to the use of public funds, and guidance issued by the Department;
- ensuring that the Board receives and reviews regular financial information concerning the management of the OfS; is informed in a timely manner about any concerns and provides positive assurance to the Department that appropriate action has been taken;
- demonstrating high standards of corporate governance at all times;
- in consultation with the Department and delegated to the Remuneration and Nominations committee, setting performance objectives and remuneration terms linked to these objectives for the Chief Executive and DfAP (see para 8.11 for further details of the DfAP's role); and
- establishing a publicly accessible register to list all of the interests of its Board members.

#### **8.6 The Chair's responsibilities**

The Chair will account to the PAO and Minister. He or she is responsible for ensuring that the OfS's policies and actions have regard to the Secretary of State's wider strategic policies as laid down in the Secretary of State's guidance and that its affairs are conducted with probity. Where appropriate, these policies and actions should be clearly communicated and disseminated throughout the OfS. The Chair will support the Senior Sponsor in discharging their role in respect of the OfS and in advising Ministers on its performance. The Chair's performance will be reviewed by the Secretary of State and the PAO.

In addition, the Chair has the following leadership responsibilities for:

- formulating the OfS strategy;
- ensuring that the Board, in reaching decisions, has regard to the Secretary of State's guidance;

- promoting the efficient and effective use of staff and other resources
- providing scrutiny of the OfS's performance and risks, including escalating any issues to the PAO or Ministers as deemed appropriate
- delivering high standards of regularity and propriety; and
- representing the views of the Board to stakeholders and the general public.

The Chair also has an obligation to ensure that the work of the Board and its members is reviewed, and the Board is working effectively. The Chair will usually do this annually. Subject to the Secretary of State's power to appoint members to the Board, the Chair has a responsibility to ensure Board members have the skills appropriate to directing the OfS's business, as set out in the Code of Good Practice for Corporate Governance.

The Chair also has the following responsibilities in this area:

- ensuring Board members are fully briefed on terms of appointment, duties, rights and responsibilities;
- he or she, together with the other Board members, receives appropriate training on financial management and reporting requirements and on any differences that may exist between private and public sector practice;
- the Minister is advised of the OfS's needs when Board vacancies arise;
- to assess and report to the Secretary of State on Board member performance and the performance of individual Board members when being considered for re-appointment;
- there is a published description of the role and responsibilities of the Board consistent with the Code of Good Practice for Corporate Governance; and
- there is a Code of Practice for board members in place, consistent with the Code of Conduct for Board Members of Public Bodies.

## 8.7 The Chief Executive's responsibilities to the Board

The Chief Executive is responsible for:

- advising the Board on the discharge of its responsibilities as set out in this document, in the founding legislation and in any other relevant instructions and guidance that may be issued from time to time;
- advising the Board on the OfS's performance with reference to its aims and objectives and promoting the efficient and effective use of staff and other resources;
- ensuring that financial considerations are taken fully into account by the Board at all stages in reaching and executing its decisions, and that appropriate financial appraisal techniques are followed; and
- bringing to the attention of the board any matters which are inconsistent with the Accounting Officer standards, including the obligation to bring them to the attention of Ministers in line with the guidance in Managing Public Money (3,4,2); and
- taking action as set out in paragraph 3.8.6 of Managing Public Money if the board, or its chairman, is contemplating a course of action involving a transaction which the chief executive considers would infringe the requirements of propriety or regularity or does not represent prudent or economical administration, efficiency or effectiveness, is of questionable feasibility, or is unethical.

## 8.8 Duty to promote equality

The OfS, as a public authority, is subject to the public sector equality duty under the Equality Act 2010. This means it is legally obliged to have due regard to equality issues when performing its functions.

## 8.9 Access and participation functions of the OfS

The access and participation functions of the OfS are set out in the Act, and relate to access, and participation in higher education (including retention and helping students succeed and progress from higher education). They cover the following:

- approving access and participation plans for providers with a mandatory access and participation plan condition (those with a fee limit wishing to charge higher fees);
- taking action when necessary to monitor and enforce registration conditions concerning access and participation (including compliance with access and participation plans), including exercising statutory sanction powers where appropriate;
- providing advice on good practice in relation to access and participation activities; and
- responding to a request from the Secretary of State for a report on matters relating to equality of opportunity in connection with access and participation in higher education.

When performing its functions relating to access and participation plans, the OfS has a duty to protect academic freedom. In addition, the OfS will have responsibilities for the mandatory transparency condition.

## 8.10 Director for Fair Access and Participation

The DfAP is a member of the OfS Board and appointed by the Secretary of State, through the public appointments process.

The Act requires that, if, for any reason, the OfS does not delegate the access and participation functions to the DfAP (excluding the general duty regarding equality of opportunity) it must set out in its ARA both the reasons and the length of time that these functions were not delegated (see para 9.1 for more on the ARA).

The DfAP is also specifically responsible for:

- overseeing the performance of the OfS's access and participation functions; and
- reporting to the other members of the OfS on the performance of the OfS's access and participation functions.

The DfAP should be internally championing and challenging for equality of opportunity in connection with access and participation to ensure the Board is sufficiently sighted on the performance of its wider duty.

## 8.11 Individual Board members' responsibilities and indemnities

Section 12.2 of the Civil Service Management Code will apply to Board and Committee members. All Board and Committee members, including those co-opted from outside the OfS and who are not OfS Board members will be indemnified as set out in section A5.4.19 of Managing Public Money. Individual Board members should:

- comply at all times with the Code of Conduct for Board Members of Public Bodies and with the rules relating to the use of public funds and to conflicts of interest;



- not misuse information gained in the course of their public service for personal gain or for political profit, nor seek to use the opportunity of public service to promote their private interests or those of connected persons or organisations;
- comply with the Board's rules on the acceptance of gifts and hospitality, business appointments and conflicts of interest; and
- act in good faith and in the best interests of the OfS.

## 9 Annual Report and Accounts

### 9.1 The requirement to provide an Annual Report and Accounts (ARA)

The OfS Board must publish an audited ARA, which sets out its activities together with its accounts, and as soon as reasonably practicable after the end of the financial year to which the ARA relates. The OfS shall provide the Department with its finalised (audited) ARA and other financial data following an agreed timetable each year in order for the ARA to be consolidated within the Department's ARA. In addition to the finalised (audited) ARA document, additional detailed working papers will also be required to be submitted to the Department (at the Department's discretion) to support the consolidation. The accounts direction, as required by the Act, is annexed at Appendix 2 of this document.

### 9.2 Requirements of the ARA

The annual reporting and accounting requirements are set out in paragraph 13 of schedule 1 the Act. This requires that the ARA must include a statement regarding how the OfS has cooperated with UK Research and Innovation (UKRI) during that year. The Department will also monitor activity and progress in this area as part of the OfS strategic quarterly performance reviews. The OfS and UKRI have put in place an agreement, setting out how they will work together including at Board and working level. The OfS should involve the Department sponsor team in any changes to these agreements. Close collaboration between the Department for Business Energy and Industrial Strategy and the Department for Education, as the respective sponsoring department of UKRI and the OfS, will help to ensure governance arrangements are aligned where appropriate.

### 9.3 Content of the ARA

The ARA must:

- cover any corporate, subsidiary or joint ventures under its control;
- comply with the HM Treasury's Government Financial Reporting Manual (FReM) and Public Expenditure Systems (PES) requirements;
- outline main activities and performance during the financial year and set out in summary form forward plans; and
- provide information on the financial sustainability of registered higher education providers, as set out in Section 68 of the Act.

### 9.4 Financial performance information

Information on performance against key financial targets is within the scope of the ARA and should be included in the annual report element of the ARA. The ARA shall be sent to the Secretary of State; laid in the House of Commons; and made available on the OfS's website. The ARA should be submitted, to the Department at a time to be agreed annually, before the proposed publication date. The ARA should be prepared in accordance with the relevant

statutes and specific accounts direction issued by the Department, and in accordance to the FReM guidance.

## **10 Internal audit and risk**

### **10.1 Internal audit and risk requirements**

The OfS shall:

- establish and maintain arrangements for internal audit and risk in accordance with HM Treasury's Public Sector Internal Audit Standards (PSIAS) and any other relevant government guidance;
- ensure that the internal auditors also provide independent and objective assurance to the OfS AO and the Board on the adequacy and effectiveness of the OfS's governance, risk management and control. This will support the AO's annual governance statement;
- ensure the Department is satisfied with the competence and qualifications of its internal auditors and the requirements for approving appointments in accordance with PSIAS;
- ensure the Department and its internal auditors (Government Internal Audit Agency) have complete access to all relevant records , including where a service is contracted out;
- forward the audit strategy, periodic audit plans and annual audit report, including the OfS's opinion on risk management, control and governance as soon as possible to the sponsor Department; and
- keep records of, and prepare and forward to the Department an annual report on fraud and theft suffered by OfS and notify the Department of any unusual or major incidents as soon as possible.

## **11 External audit**

### **11.1 External Audit procedure**

C&AG audits the OfS's ARA. Once the C&AG audit certificate has been issued and incorporated into the ARA, the Secretary of State will lay the ARA in the House of Commons.

### **11.2 The C&AG**

The C&AG may carry out examinations into the economy, efficiency and effectiveness with which the OfS has used its resources in discharging its functions. For the purpose of these examinations the C&AG has statutory access to documents as provided for under section 8 of the National Audit Act 1983. In addition, the OfS shall provide, in conditions to grants and contracts, for the C&AG to exercise such access to documents held by grant recipients and contractors and sub-contractors as may be required for these examinations; and shall use its best endeavours to secure access for the C&AG to any other documents required by the C&AG which are held by other bodies. The C&AG:

- will consult the Department and the OfS on whom – the National Audit Office (NAO) or a commercial auditor – shall undertake the audit(s) on his behalf, though the final decision rests with the C&AG;
- has a statutory right of access to relevant documents, including by virtue of section 25(8) of the Government Resources and Accounts Act 2000, those held by another party in receipt of payments or grants from the OfS;
- will share with the Department information identified during the audit process and the audit certificate (together with any other outputs) at the end of the audit, in particular on issues impacting on the Department’s responsibilities in relation to financial systems within the OfS; and
- will, where asked, provide departments and other relevant bodies with Regulatory Compliance Reports and other similar reports that departments may request at the commencement of the audit and which are compatible with the independent auditor's role.

### **11.3 Subsidiary companies**

OfS must secure agreement from the Department before it establishes any subsidiary companies. The Cabinet Office should be informed so it can be assured as to whether a subsidiary constitutes a new non-departmental public body. In the event that the OfS has set up and controls subsidiary companies, the OfS will, in the light of the provisions in the Companies Act 2006, ensure that the C&AG is appointed auditor of those subsidiaries that it controls and/or whose activities are consolidated into its own ARA. The OfS shall discuss with the Department the procedures for appointing the C&AG as auditor of the subsidiary companies. If the subsidiary is a new public body, then HM Treasury will always consider this to be novel and will require HM Treasury’s prior approval, Cabinet Office controls relating to the establishment of new public bodies will also apply’

### **11.4 Right of access**

Subject to any data protection or other legal requirements, the Department has the right of access to all OfS records and personnel for any purpose in relation to external audit including, for example, sponsorship audits and operational investigations.

## **12 Management and financial responsibilities**

### **12.1 Managing Public Money and other government-wide corporate guidance and instructions**

Unless agreed by the Department and HMT, as necessary, OfS shall follow the principles, rules, guidance and advice in [Managing Public Money](#), referring any difficulties or potential requests for exceptions, to the FBP team or OfS sponsor team in the Department in the first instance. The FBP team and sponsor team will be responsible for seeking advice from relevant departmental teams (Financial Controls and Governance Team) and HM Treasury. A list of guidance and instructions with which the OfS should comply is in [Appendix 1](#).

### **12.2 Delegated Financial Authorities Letter**

The OfS shall comply with the financial delegations set out the Delegated Financial Authority Letter. The limitations on the financial delegations are set out in clause 18.1.

### **12.3 Incurring expenditure**

Once the budget has been approved by the Department and subject to any restrictions imposed by statute, the terms and conditions of grant, the Minister's instructions, and this Framework Document, the OfS shall have authority to incur expenditure approved in the budget without further reference to the Department, on the following conditions:

- the OfS shall comply with the financial delegations set out in the delegation letters, and these delegations shall not be altered without the prior agreement of the Department;
- the OfS shall comply with Managing Public Money regarding novel, contentious or repercussive proposals;
- inclusion of any planned and approved expenditure in the budget shall not remove the need to seek formal departmental approval where any proposed expenditure is outside the delegated limits; and
- the OfS shall provide the Department with such information about its operations, performance of individual projects or other expenditure as the Department may reasonably require.

#### **12.4 OfS registration Fees**

The Higher Education (Registration Fees) (England) Regulations 2019 provide for the OfS to charge registration fees and interest on late payment. The Secretary of State, with the consent of the Treasury, has directed in accordance with Section 72 of the Higher Education and Research Act 2017 that the OfS may retain fee income (as defined in that section) in accordance with the limitations set out in the direction. In practice, this means that the OfS will meet the majority of its operating costs from the fee income in accordance with the terms of the direction whilst the direction remains in place.

#### **12.5 Procurement**

OfS shall ensure that its procurement policies are aligned with and comply with any relevant UK, EU or other international procurement rules and in particular the Public Contracts Regulations 2015.

Where OfS is likely to exceed its procurement delegated authority limit, prior approval for the specific planned purchase must be sought from the department.

OfS shall comply with all relevant Procurement Policy Notes issued by Cabinet Office.

#### **12.6 Cabinet Office Efficiency Controls**

Cabinet Office introduced Efficiency Controls in 2010. The Controls apply to the Department, and Arm's Length Bodies funded by Department. Cabinet Office efficiency controls help the department and its ALB reduce unnecessary spend. They aim to:

- save money
- encourage a smarter, cross-government approach to spend
- implement specific government policies

OfS shall comply with efficiency controls as detailed in its delegated authority letter. Detailed guidance on CO controls is available [here](#).

## **13 Risk management**

### **13.1 Risk management strategy**

The OfS shall ensure that the risks that it faces are dealt with in an appropriate manner, in accordance with relevant aspects of best practice in corporate governance and the wider departmental approach. It will maintain a risk management strategy in accordance with the Treasury guidance Management of Risk: Principles and Concepts. In addition, it should adopt and implement policies and practices to safeguard itself against fraud and theft, in line with HM Treasury's guidance on tackling fraud. It should also take all reasonable steps to appraise the financial standing of any firm or other body with which it intends to enter into a contract or to give grant or grant-in-aid.

OfS has put in place an information security policy and processes that provide assurance on the appropriate management and treatment of information across OfS.

### **13.2 Reporting risk**

The OfS will share risk information with the Senior Sponsor and notify the Department's Audit and Risk Committee, via the sponsor team, of risks that need or may need action. The OfS's Risk and Audit Committee will provide independent advice on the effectiveness of risk management to the OfS Board. The OfS will:

- respond to departmental commissions for information on performance and risk as appropriate to support the Senior Sponsor in carrying out their role;
- maintain robust contingency and business continuity plans and will review and test these frequently; and
- report monthly to the Senior Sponsor on policy, significant organisational, and delivery risks, including progress toward delivering the register.

### **13.3 Value for money**

The Act places an explicit statutory duty on the OfS to have regard to the need to use its resources in an efficient, effective and economic way. It also allows the OfS to arrange for studies on the efficiency and effectiveness of registered providers. The OfS should report on both in its ARA. The OfS should publish the results of efficiency, effectiveness and economy studies it carries out on registered providers under Section 69 of the Act.

## **14 OfS corporate and business plans**

### **14.1 Strategic plan**

The OfS shall keep the department informed about the development of its strategic plans and the timetable for its preparation. The plan shall have regard to the OfS's general duties and the guidance given to it by the Secretary of State. The plan shall demonstrate how the OfS contributes to the achievement of the Department's priorities for the OfS and higher education more broadly and cover objectives and associated key performance targets for the forward years, and the strategy for achieving those objectives.

## **14.2 Business plan**

In addition to the corporate plan, the OfS will also produce an annual business plan. This will comprise targets and milestones for the year immediately ahead. Resources shall be clearly allocated to objectives. Subject to any commercial considerations, the strategic and business plans will be published by the OfS on its website and made available to staff.

OfS will provide information for the Main and Supplementary Estimates each year as advised by the Department as well as other data as required for HM Treasury's Online System for Central Accounting and Reporting (OSCAR).

## **14.3 Advance sight of corporate and business plans**

The OfS will give the Senior Sponsor advanced sight of its draft strategic and business plans, so that the Minister can be assured that the OfS has had due regard to the Secretary of State's guidance.

## **14.4 OfS input to Department's quarterly business planning process**

OfS will also support the Department's quarterly business planning process, as appropriate, updating detailed templates covering admin (including payroll information), programme and capital budgets for the year immediately ahead and future years as advised by the Department. This will include providing evidence to support any assumptions made. The OfS will work with the Department to meet any efficiency targets and to respond to any challenges arising as a result of this business planning work as agreed by the Department's Leadership Team.

## **15 Budgeting procedures**

### **15.1 Budget information in the business plan**

The approved annual business plan will take account both of approved funding provision and any forecast receipts, and will include a budget of estimated payments and receipts together with a profile of expected expenditure and of draw-down of any Departmental funding and/or other income over the year. These elements form part of the approved business plan for the year in question.

OfS will work with the Department regarding information/evidence that can support the Spending Review process in the Department.

## **16 Grant-in-aid and any ring-fenced grants**

### **16.1 Grant-in-aid voted**

Any grant-in-aid provided by the Department for the year in question will be voted in the Department's Supply Estimate and be subject to Parliamentary control.

### **16.2 Timing of grant-in-aid**

The grant-in-aid will normally be paid in monthly instalments on the basis of written applications showing evidence of need. The OfS will comply with the general principle that there is no payment in advance of need. Cash balances accumulated during the course of the year from grant-in-aid or other Exchequer funds shall be kept to a minimum level consistent with the efficient operation of the OfS. Grant-in-aid not drawn down by the end of the financial year shall

lapse. Subject to approval by Parliament of the relevant Estimates provision, where grant-in-aid is delayed to avoid excess cash balances at the year-end, the Department will make available in the next financial year any such grant-in-aid that is required to meet any liabilities at the year-end, such as creditors.

### **16.3 Ring-fenced grants**

In the event that the Department provides the OfS separate grants for specific (ring-fenced) purposes, it would issue the grant as and when the OfS needs it on the basis of a written request. The OfS would provide evidence on request that the grant was used for the purposes authorised by the Department. The OfS shall not have uncommitted grant funds in hand, nor carry grant funds over to another financial year without prior agreement.

## **17 Reporting financial and non-financial performance to the Department**

### **17.1 Regular reporting**

The OfS shall operate management, information and accounting systems that enable it to review in a timely and effective manner its financial and non-financial performance against the budgets and targets set out in the corporate and business plans. The OfS shall inform the Department of any changes that make achievement of objectives more or less difficult. It shall report financial and non-financial performance, including performance in helping to deliver Ministers' policies, and the achievement of key objectives regularly. As set out in paragraph 5.4, the OfS's strategic performance shall be formally reviewed by the Department quarterly. The Senior Sponsor will chair the strategic quarterly performance review and will be supported by a non-executive member of the Department's Board. Furthermore, the Secretary of State will normally meet the Chair and Chief Executive at least once a year.

### **17.2 Providing financial monitoring information to the Department**

The OfS will be required to report their monthly outturn via the Department reporting systems and in line with Departmental reporting deadlines; as well as providing a monthly report summarising variances (and explanations of these variances) against budget, forecast and expected run rates for resource and capital budgets in a template agreed with the Department's Finance Business Partner team. This will enable the Department to report the monthly forecast outturn information and other data required by HMT Treasury.

The OfS will also provide other data required for transparency reporting to the Cabinet Office and HM Treasury. OfS will publish its transparency data according to Cabinet Office requirements.

### **17.3 Forecasts**

The OfS will also be required to provide monthly cash forecasts and other requested cash flow and bank balance information in line with the Department's cash management deadlines to accurately forecast their cash flows in accordance with HM Treasury monthly and daily targets, and support the grant-in-aid cash requirement for the following month. This will enable the Department to monitor cash usage against forecasts, and report up to date cash information to HM Treasury.

## **17.4 OfS provision of information on higher education providers**

The OfS will support the Department in developing new policy and monitoring the effectiveness of existing policy by providing information, analysis, and advice on higher education providers, as requested by the Department.

## **18 OfS delegated authorities**

### **18.1 Delegated authorities**

The OfS shall obtain the Department's prior written approval before:

- entering into any undertaking to incur any expenditure that falls outside the delegations or which is not provided for in the OfS's annual budget as approved by the Department;
- incurring expenditure for any purpose that is or might be considered novel, contentious or repercussive, or which has, or could have, significant future cost implications;
- making any significant change in the scale of operation or funding of any initiative or particular scheme previously approved by the Department;
- making any change of policy or practice which has wider financial implications that might prove repercussive or which might significantly affect the future level of resources required;
- or
- carrying out policies that go against the principles, rules, guidance and advice in Managing Public Money.

### **18.2 Severance payments**

Any proposal by the OfS to make severance payment must comply with the rules in chapter 4 of Managing Public Money and Cabinet Office guidance on severance payments.

OfS does not have delegated authority to make special severance payment. Any proposal for special severance payment (i.e. non-contractual) must be submitted to the Department first, for prior approval before making payment.

## **19 Staff**

### **19.1 Broad responsibilities for staff**

Within the arrangements approved by the responsible Minister and HM Treasury, the OfS will have responsibility for the recruitment, retention and motivation of its staff. The broad responsibilities toward its staff are to ensure that:

- the rules for recruitment and management of staff create an inclusive culture in which diversity is fully valued; appointment and advancement is based on merit: there is no discrimination on grounds of gender, marital status, sexual orientation, race, colour, ethnic or national origin, religion, disability, community background or age;
- the level and structure of its staffing, including grading and staff numbers, are appropriate to its functions and the requirements of economy, efficiency and effectiveness;
- the performance of its staff at all levels is satisfactorily appraised and the OfS performance measurement systems are reviewed from time to time;
- its staff are encouraged to acquire the appropriate professional, management and other expertise necessary to achieve the OfS's objectives;



- proper consultation with staff takes place on key issues affecting them, including with any recognised union;
- adequate grievance and disciplinary procedures are in place;
- whistle-blowing procedures consistent with the Public Interest Disclosure Act are in place; and
- a code of conduct for staff is in place based on the Cabinet Office's Model Code for Staff of Executive Non-departmental Public Bodies (Annex A).

## **19.2 Staff costs**

Subject to its delegated authorities, the OfS shall ensure that the creation of any additional posts does not incur forward commitments that will exceed its ability to pay for them.

## **19.3 Pay and conditions of service**

The Department should have regard to chapter 5 of the Cabinet Office's Public Bodies: A Guide for Departments that provides guidance on staff issues in public bodies. The OfS's staff are subject to levels of remuneration and terms and conditions of service (including pensions) within the general pay structure approved by the Department and HM Treasury.

## **19.4 Terms and conditions**

The Act grants OfS the power to determine staff terms and conditions with the approval of the Secretary of State. The OfS requires Secretary of State's approval for staff remuneration, including annual sign off for the pay remit. The OfS has no delegated power to amend these terms and conditions without Secretary of State's approval.

## **19.5 Handbook**

Staff terms and conditions should be set out in an Employee Handbook.

## **19.6 Pay structure**

The OfS shall operate a pay structure approved by the Department and HM Treasury. This will include a performance-related pay scheme that shall form part of the annual aggregate pay budget approved by the Department.

## **19.7 Expenses**

The travel expenses of Board members shall be tied to the rates allowed to senior staff of the OfS. Reasonable actual costs shall be reimbursed.

## **19.8 Legislation**

The OfS shall comply with all applicable employment legislation.

## **19.9 Pensions, redundancy and compensation**

OfS staff shall normally be eligible for a pension provided under the Civil Service Pension Arrangements and employees will be auto enrolled into the applicable scheme at the time of joining. Staff may opt out of the occupational pension scheme provided by the OfS, and any employers' contribution to any stakeholder scheme under the Principal Civil Service Pension Scheme (PCSPS) partnership arrangements shall normally be limited to the national insurance rebate level.

## **19.10 Change of pension arrangements**

Any proposal by the OfS to move from the existing pension arrangements, or to pay any redundancy or compensation for loss of office, requires the prior approval of the Department and HM Treasury/Cabinet Office where applicable. Proposals on severance must comply with the rules in chapter 4 of Managing Public Money and Cabinet Office guidance on severance payments.

## **20 Review of the OfS**

### **20.1 Tailored Review**

OfS will be subject to a 'Tailored Review' in line with Cabinet Office policy for the tailored reviews of public bodies. This will cover both the existing Tailored Review programme and any future programme that supersedes it.

These reviews ensure, inter alia that OFS is delivering effectively against its aims and objectives.

## **21 Arrangements in the event that the OfS is wound up**

### **21.1 Orderly winding up**

The Department shall put in place arrangements that in the event that the OfS is wound up, this is done in an orderly way. In particular, it should ensure that the assets and liabilities of the OfS are passed to any successor organisation and accounted for properly. (In the event that there is no successor organisation, the assets and liabilities should revert to the Department.) To this end, the Department shall:

- ensure that procedures are in place in the OfS to gain independent assurance on key transactions, financial commitments, cash flows and other information needed to handle the wind-up effectively and to maintain the momentum of work inherited by any residuary body;
- specify the basis for the valuation and accounting treatment of the OfS's assets and liabilities;
- ensure that arrangements are in place to prepare closing ARA and pass to the C&AG for external audit, and that, for non-Crown bodies funds are in place to pay for such audits. It shall be for the C&AG to lay the final ARA in the House of Commons, together with his certificate; and
- arrange for the most appropriate person to sign the closing ARA. In the event that another arm's length body takes on the role, responsibilities, assets and liabilities, the succeeding body's AO should sign the closing ARA. In the event that the Department inherits the role, responsibilities, assets and liabilities, the Department's Accounting Officer should sign.

### **21.2 Financial gains of developers**


The OfS shall provide the Department with full details of all agreements where the OfS or its successors have a right to share in the financial gains of developers.

## Signatures

Signed: 

Date: 1 October 2019

**Permanent Secretary, Department for Education**

Signed: 

Date: 4 October 2019

**Chair, Office for Students**

Signed: 

Date: 4 October 2019

**Chief Executive Officer, Office for Students**

Signed: 

Date: 2 October 2019

**Minister for Universities, Science, Research and Innovation**

## **LIST OF APPENDICES**

**Appendix 1 List of government corporate guidance and instructions**

**Appendix 2 Accounts Direction**

**Appendix 3 Information Requests under Section 78 of HERA**

**Appendix 4 Delegated Financial Authority Letter**

## APPENDIX 1. Government corporate guidance and instructions

The OfS shall comply with the following general guidance documents and instructions:

- This Framework Document
- Appropriate adaptations of sections of Corporate Governance in Central Government Departments: Code of Good Practice
- Code of Conduct for Board Members of Public Bodies
- Guidance for Ministerial Appointments to Public Bodies
- Managing Public Money, including:
  - Chapter 6, Fees and Charges Guide;
  - Annex 5.6, Departmental Banking: A Manual for Government Departments
- Public Sector Internal Audit Standards
- Management of Risk: Principles and Concepts
- HM Treasury Guidance on Tackling Fraud
- Government Financial Reporting Manual
- Relevant Dear Accounting Officer letters
- Regularity, Propriety and Value for Money
- The Parliamentary and Health Service Ombudsman's Principles of Good Administration <http://www.ombudsman.org.uk/improving-public-service/ombudsmansprinciples>
- Partnerships between Departments and Arm's Length Bodies: Code of Good Practice
- Consolidation Officer Memorandum, and relevant DCO letters
- Relevant Freedom of Information Act guidance and instructions (Ministry of Justice)
- Model Code for Staff of Executive Non-departmental Public Bodies (Annex A)
- other relevant guidance and instructions issued by the Treasury in respect of Whole of Government Accounts
- Other relevant instructions and guidance issued by central departments
- Specific instructions and guidance issued by the Department
- Recommendations made by the Public Accounts Committee, or by other Parliamentary authority, that have been accepted by the Government and relevant to the OfS

<https://www.gov.uk/government/publications/tailored-reviews-of-public-bodies-guidance>.

## APPENDIX 2. Accounts Direction



Department  
for Education

**ACCOUNTS DIRECTION GIVEN BY THE SECRETARY OF STATE FOR EDUCATION,  
WITH THE APPROVAL OF HM TREASURY, IN ACCORDANCE WITH PARAGRAPH 12(2)  
OF SCHEDULE 1 TO THE HIGHER EDUCATION AND RESEARCH ACT 2017**

1. This direction applies to the Office for Students (OfS)
2. OfS shall prepare accounts for the financial year ended 31 March 2020 and subsequent financial years in compliance with the accounting principles and disclosure requirements of the edition of the Government Financial Reporting Manual issued by HM Treasury ("the FReM") which is in force for the financial year for which the accounts are being prepared, together with any additional disclosure or other requirements as agreed with the department.
3. The accounts shall be prepared so as to:
  - (a) give a true and fair view of the state of affairs at 31 March 2020 and subsequent financial year-ends, and of the income and expenditure (or, as appropriate, net resource outturn), changes in taxpayers' equity and cash flows for the financial year then ended; and
  - (b) provide disclosure of any material expenditure or income that has not been applied to the purposes intended by Parliament or material transactions that have not conformed to the authorities which govern them.
4. Compliance with the requirements of the FReM will, in all but exceptional circumstances, be necessary for the accounts to give a true and fair view. If, in these exceptional circumstances, compliance with the requirements of the FReM is inconsistent with the requirement to give a true and fair view, the requirements of the FReM should be departed from only to the extent necessary to give a true and fair view. In such cases, informed and unbiased judgement should be used to devise an appropriate alternative treatment which should be consistent with both the economic characteristics of the circumstances concerned and the spirit of the FReM. Any material departure from the FReM should be discussed with the Department for Education and HM Treasury.

Signed for and on behalf of the Secretary of State for Education,

.....  
Ian Coates  
Director  
21 May 2019

## APPENDIX 3: Information Requests under Section 78

### Section 78 of the Higher Education and Research Act 2017

#### Working arrangements

This document has been drawn up by the Department for Education ("the Department") in consultation with the Office for Students ("OFS"). This document sets out the standing arrangements which will be followed in relation to requests for information made by the Department under section 78 of the Higher Education and Research Act 2017 ("HERA"). This document sits under the Framework Document between the Department and the OFS dated 14 March 2018 and is to be read consistently with it. Neither document confers any legal powers or responsibilities.

The purpose of these arrangements is to clarify procedure only.

**The standing arrangements are as follows:**

1. A request for information under section 78 of HERA ("section 78 request") will be made by a member of the Department's staff in the Higher and Further Education Group ("HEFE Group") in the divisions and teams listed below who is Grade 7 or above:

- **Student Finance**
  - Post 18 Review
  - Future Student Finance
  - Student Finance Policy
- **Career Learning, Analysis, Skills and Student Choice**
  - Student Information and Choice
  - SLC Strategy and Sponsorship
  - HE Analysis
- **Higher Education, STEM and Tertiary Providers**
  - OFS Sponsorship Team
  - Widening Participation and Student Experience
  - Strategy Development and Implementation
  - International Education Policy
  - Regulatory and Provider Policy
  - Erasmus+
  - STEM and Digital Skills Unit

2. The OFS will treat a request for information as a section 78 request where –

- (a) it is a request for information regarding any of the OFS' functions or for information obtained in the performance of any of those functions;
- (b) it includes a brief explanation of why the request is made; and
- (c) it is from a member of the Department's staff in a team listed in paragraph 1 who is Grade 7 or above.

3. The Department and OfS can agree to depart from the procedure set out in paragraphs 1 and 2 above in particular cases.
4. The Department will provide OfS with the names of the members of the HEFE Group in the teams specified in paragraph 1 who are Grade 7 or above and update that information as necessary.
5. The Department will take reasonable steps to avoid duplicate, disproportionate or redundant requests.
6. Where OfS considers that a request is outside the scope of section 78, the OfS should raise this first with the person requesting the information or their line manager. Where an issue is not resolved in this way paragraph 5.5 of the Framework Document will apply.
7. The explanation given for the request referred to at paragraph 2(b) above is to help the OfS to identify information relevant to the request. The Department may subsequently use the information obtained in response to a section 78 request for purposes not covered by the explanation.
8. Where the section 78 request relates to information that contains personal data the Department will comply with all relevant data protection requirements in relation to that data. If necessary, the Department will put in place additional arrangements to meet data protection requirements. Any additional arrangements will sit alongside these standing arrangements.
9. These arrangements will be reviewed six monthly.
10. Requests by other government departments and agencies fall outside the scope of these arrangements.

Signed for DfE:



Deputy Director

Date: 13/03/2019

Signed for OfS:

  
Director

Date:

25/3/19



## APPENDIX 4: Delegated Financial Authority Letter



Nicola Dandridge  
CEO & Accounting Officer,  
Office for Students  
Nicholson House  
Lime Kiln Close  
Stoke Gifford  
Bristol  
BS34 8SR

Philippa Lloyd  
Director General, Higher and Further Education  
Department for Education  
Sanctuary Buildings  
Great Smith Street  
London  
SW1P 3BT

1<sup>st</sup> April 2018

### Letter of Delegation

Dear Nicola,

#### DELEGATION OF FINANCIAL AUTHORITY

1. As the Director General - Further and Higher Education Directorate, the Department's Accounting Officer has given me delegated authority, to exercise a range of financial and non-financial authorities and to sub-delegate these as appropriate. I am writing to you to set out your delegated authority as detailed below and in the enclosed Annex A.
2. In delegating this authority to you, I direct your attention to the matters of principle and responsibility documented in the Office for Students (OfS)'s Framework Document which covers aspects such as Governance and Accountability; Engagement; Annual Report and Accounts; Audit; Risk; Management and Financial Responsibilities; Corporate and Business Plans; Budgeting Procedures; Grant-in-Aid and Ring-fenced Grant; Reporting Financial and non-Financial performance; and Staff. By accepting this Delegation of Financial Authority (DFA), plus your responsibility as Chief Executive and Accounting Officer (AO) of the OfS, you assume full accountability and responsibility for ensuring that any public funds under your control are managed in an economic, efficient and effective manner.
3. You have delegated authority, to commit, certify and authorise expenditure and payments for grants, grant-in-aid, and the purchase of goods and services, and to raise invoices, collect and accept receipts of monies for fees and charges, appropriations-in-aid, and the sales of goods and services, against budgets you are accountable and responsible for administering, or against allocations made to your post from other budgets for the primary purpose of delivering your contribution to Departmental plans, policies and priorities. Furthermore, all income and expenditure should withstand scrutiny against the principles of HM Treasury and Cabinet Office's requirements, including [Managing Public Money](#)

guidance, and demonstrate Value for Money. You must retain all records of receipts and spending and any related decision-making documents for internal / external audit review(s).

4. This DFA is effective, from 1 April 2018 and will remain in force until further notice, or such time that you personally cease to be the post holder.
5. This DFA supersedes any other financial authorities previously issued to you, and is applicable to your current post. In addition to the conditions set out above, you are required to adhere to the relevant policies, procedures and guidance issued by the Department for Education (DfE) and/or published on its GOV.UK website. This includes all financial matters relating to accounting, budgeting, estimates, contracting, procurement, purchasing and sales, including matters of corporate governance, fraud avoidance, and risk management. You are also required to carry out an annual review of the internal controls, financial and otherwise, operating within your area of responsibility and to sign a formal statement to that effect in support of the Department's Governance Statement.
6. There are some specific matters which you will be personally held accountable for ensuring that they are complied with in full and in line with HMT's guidance:

**i) Spending Reviews, Budget Allocations and Transfers**

As part of the Spending Review process, your active engagement is required in determining the resource planning requirements for your area of business. Following this your agreed and detailed Budget Allocations will be formally delegated to you by me, necessarily being reviewed and updated, from time to time, principally as a result of the Main and Supplementary Estimates process. However, you may choose to exercise your authority to manage your combined resources more flexibly and to transfer budgets between programme lines within your plans and policies, but in all such cases, you must first seek and receive my prior agreement via the sponsorship team and finance business partner team, before any budgets, records and systems are formally updated.

**ii) Transfer Limitations**

HM Treasury's [Consolidated Budgeting Guidance](#), places limitations on both the nature and types of possible transfer between different budgets. You should note that it is not possible to transfer from Annually Managed Expenditure (AME) to Departmental Expenditure Limits (DEL), from Ring-fenced to Non-Ring-fenced budgets, from Capital to Resource DEL or from Programme to Admin without a Derogation or specific authority from HM Treasury, and in all such cases, you should first seek and receive my agreement before any such budget transfer. It is, however, possible to transfer funds in the other direction [for example, admin to programme], but in all such cases, you should first seek and receive my agreement before any such budget transfer. Where a transfer is permissible within the Department's overall Budget and my Delegation of

Financial Authority, I should be able to accommodate your request, but outside of these tolerances, I would have to seek and receive formal approval from HM Treasury.

**iii) Forecasting**

You are responsible for the preparation and accountable for the product of your budget profile for the financial year and for providing accurate and consistent monthly cash management and accruals based forecasts, based on your best estimates, reflecting the changing nature of your business area. I expect this requirement, together with the general stewardship of the resources under your control, to be reflected in your annual performance and assessment review. Moreover, I or a member of my team, will continue to hold regular meetings with you as set out in the OfS Framework document to discuss your forecast outturns, risks and opportunities and emerging pressures and priorities, the outcome of which will help inform our update to the Management Board of the Department's overall financial position.

**iv) Losses, Special payments, Acceptance of Late Claims, Waiving/abandoning of Claims and Donation of Gifts**

You have no authority to make special payments (including compensation and ex-gratia payments), waive claims or to donate any gifts. In all cases, you must seek and receive my formal approval to your proposal before proceeding with any action about these matters. You have delegated authority for small losses and write offs as per Annex A. However, where you have low value/high volume transactions or a regular requirement to perform such tasks, you may apply to me for an additional and specific delegation in this regard.

**v) Lending, Guarantees, Indemnities, Letters of Comfort and Contingent Liabilities**

Except where the OfS is exercising its powers to make loans under sections 39 or 40 of the Higher Education and Research Act 2017<sup>1</sup>, (or in the financial year 2018/19, where the OfS is exercising the power to make loans previously exercised by HEFCE in section 65 of the Further and Higher Education Act 1992), you do not have delegated authority to engage in the provision of loans, guarantees, indemnities or letters of comfort or to enter into any transactions that may give rise to a contingent liability. In cases where there is no delegated authority, you must seek and receive my formal approval, and that of HM Treasury (where necessary) via the Finance Business Partner and Sponsorship team, to your proposal before proceeding with any action on these matters. In

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<sup>1</sup> Section 39 confers a power on the OfS to provide financial support (through grants, **loans** and other payments) in relation to the provision of education by registered higher education providers of a description prescribed by regulations under this section. Section 40 confers a power on the OfS to provide financial support (through grants, **loans** and other payments) for the purposes of higher education courses prescribed by regulations under this section where such courses are provided by certain institutions (further education providers and those maintained or assisted by local authorities).

addition, in all cases, irrespective of whether there is delegated authority, Parliament may need to be informed, dependent upon the specific circumstances as per provisions set out in Managing Public Money. The provision of interest-free loans to staff that are consistent with current OfS HR policies are valid and reasonable. These loans will be, for example, for the purchase of bus/train season tickets, and pedal bicycles. As they are an advance of salary and part of normal business, this is different from the reference to loans above.

**vi) Novel, Contentious or Repercussive Proposals**

You do not have delegated authority for these. My formal approval and, through me, that of HM Treasury should be obtained, before incurring any expenditure or receiving any income from any activity or for any purpose which is or might be considered novel, contentious or repercussive.

**vii) Recruitment of Retired Civil Servants**

You should also note that HM Treasury approval is specifically required for the engagement of retired civil servants who are not re-employed as civil servants, e.g. as employed or self-employed consultants or contractors. If you plan to engage the services of a retired civil servant, please first consult with HR and prepare a submission for HM Treasury, which should also be agreed with and submitted through the Department's Finance Business Partner and Sponsorship team.

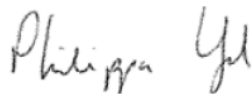
**viii) Cabinet Office Controls**

For the avoidance of doubt, you must comply with the provisions of the [Cabinet Office's Efficiency & Reform Group Controls](#).

Any case requiring HMT's formal approval must be submitted to the Department's Finance Business Partner and Sponsorship team, who in turn will work with the DfE's Financial Governance & Finance Policy Team, to obtain the relevant approval.

Finally, I know you will appreciate that any breach of the conditions laid down in this, and any sub-delegated, Letter of Financial Delegation, will be taken seriously and could result in disciplinary action being taken against you and any other members of staff associated with the chain of authority

Delegation made by:



**Philippa Lloyd**  
**Director General**  
**Higher and Further Education Directorate**  
(electronic signature)

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Acknowledged/signed by: Nicola Dandridge

*Nicola Dandridge*

**Chief Executive Officer**  
**Office for Students**  
(electronic signature)

Annex A

**Delegations for Office for Students**

Nature of Delegation		OfS delegated limit
<b>Policies and programmes agreed and announced at the Spending Review</b>	Resource DEL	<p>Delegated up to the limits set out in the annual guidance letter from the Secretary of State and approved by HMT and the annual budget allocation letter apart from the specific restrictions in para 6 above and those set out below.</p> <p>The OfS should discuss these issues with its DfE sponsor team in any case where it is unclear whether a new delegation authority is required.</p> <p>For the avoidance of doubt, there is no restriction on OfS' statutory freedom to distribute the grant totals between HE providers as it sees fit.</p>
	Capital DEL	<p>Delegated up to the limits set out in the annual guidance letter from the Secretary of State and approved by HMT and the annual budget allocation letter apart from the specific restrictions in para 6 above and those set out below as for resource DEL above</p> <p>The OfS should discuss these issues with its DfE sponsor team in any case where it is unclear whether a new delegation authority is required.</p>
<b>All new announcements, policies and programmes creating one off or on-going expenditure</b>	Resource and Capital DEL	£0m. Not delegated and Departmental approval required

<b>Operational expenditure</b>	Admin	Delegated up to the limits set out in the annual budget allocation letter issued by DfE
<b>Spending commitments beyond 19/20</b>	All expenditure	£0m. Not delegated and Departmental approval required.
<b>Internal funding allocations</b>	Resource and Capital	£0m. Not delegated. This relates to the restrictions in para 6(ii) above on the transfer of funding between different categories of expenditure, not to the distribution of funding within those categories of expenditure.
<b>Write offs and losses (para 6 iv)</b>	All expenditure	Delegated to cover small amounts to maximum of £1,000 per case



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